IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 457 OF 2002

Shripati Hari Jamdar. ... Appellant.
Versus.
Balaku Ramchandra Jamdar
(since deceased through LRs.)
1A) Pandurang Balaku Jamdar & ors. ... Respondents.

Shri B.K.Raje for the Appellant.

Shri R.V.More for the Respondents Nos.1A to 1C,1H,2 to 4.

CORAM : ABHAY S. OKA, J.
DATED : 2nd March, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. The Appeal is by the unsuccessful original Plaintiff. He filed a suit for simplicitor for perpetual injunction. The case made out by the Appellant is that he was agricultural tenant in respect of the suit land. He relied upon a challan under which the price of the suit land was fixed under section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948 was paid. However, the Appellant did not produce the Judgment of the Agricultural Land Tribunal by which the Appellant/Plaintiff was permitted to purchase the suit land.

2. Shri Raje for the Appellant submitted that in Appeal by way of additional evidence, a copy of the Judgment in Tenancy Appeal No.225 of 1956 was produced which supports the case of the Appellant. He also submitted that the notice issued by the Appellant/Plaintiff (Exh.62) asserting his tenancy rights is also produced

and exhibited. He submitted that the suit could not have been dismissed on the ground that there are no proper averments regarding existence of tenancy rights in favour of the Appellant/Plaintiff.

3. The Appellate Court has found that the Appellant has not produced the certificate under section 32-M of the said Act of 1948 and he has tried to rely upon only a challan showing deposit of the price. The Appellate Court has also held that the copy of the Judgment in Tenancy Appeal No.225 of 1956 which was produced by the Appellant by way of additional evidence does not disclose that the Appeal was pertaining to the suit land.

4. When the Appellant/Plaintiff came up with the case regarding purchase of the suit land under the provisions of the said Act of 1948, he should have produced the evidence of purchase. In the absence of any such evidence no fault can be found with the approach of the Courts below when it was held that the Appellant/Plaintiff has failed to prove that he was in exclusive possession of the suit land.

5. No substantial question arises. The Second Appeal is dismissed with no order as to costs.

Judge.